



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: David Boland, Inc.

File: B-244817

Date: October 29, 1991

David Boland for the protester,
Norman Reitmeyer for North American Construction Corporation, an interested party,
Paul M. Fisher, Esq., Department of the Navy, for the agency,
Linda S. Lebowitz, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that proposed awardee's bid is unbalanced based on an allegedly overstated price for a single item is dismissed because protester's comparison of its competitor's allegedly overstated price for the item with its own price for the item does not by itself establish price enhancement or that its competitor's bid is unbalanced.

DECISION

David Boland, Inc. protests the proposed award of a contract to North American Construction Corporation under invitation for bids (IFB) No. N62467-88-B-0657, issued by the Department of the Navy for construction services for the Special Forces Training Facility, Key West, Florida. Boland argues that North American's bid is mathematically and materially unbalanced and should be rejected.

We dismiss the protest.

The IFB, issued on May 10, 1991, contemplates the award of a firm, fixed-price contract. The IFB required bidders to submit prices for a single base bid item (item No. 1) representing the basic construction services to be performed in accordance with the IFB's drawings and specifications and three additive or deductive items (item Nos. 2, 3, and 4) representing additional construction services to be performed if sufficient funds are available. The IFB provides that award in the best interest of the government will be made to the low, responsive and responsible bidder on its base bid and any combination of additive or deductive items for which funds are available.

Four firms submitted bids by the amended bid opening date of July 11. The agency determined that it would award item Nos. 1 and 2 as the award of these two items would be in the best interest of the government. For item Nos. 1 and 2, North American was the apparent low bidder, having offered a price of \$8,573,230, and Boland was the apparent second low bidder, having offered a price of \$8,884,000. Following the resolution of this preaward protest, the agency states it will award a contract to North American, the low, responsive and responsible bidder.

Boland argues that North American's bid is overstated and should be rejected as mathematically and materially unbalanced. Boland bases its argument on a comparison of its price (\$68,000) and its cost estimate (\$64,289) for item No. 4 to North American's price (\$278,740) for item No. 4.

Before a bid can be rejected as unbalanced, it must be found both mathematically unbalanced--where a bid is based on nominal prices for some items and enhanced prices for other items, and materially unbalanced--where a bid is mathematically unbalanced and there is a reasonable doubt that an award based on the bid will result in the lowest cost to the government. See Food Servs., Inc., B-243173; B-243173.2, July 10, 1991, 91-2 CPD ¶ 39. Here, while Boland contends that North American submitted an overstated price for item No. 4, it never contends that North American submitted nominal prices for any items. Moreover, Boland merely bases its argument that North American submitted an enhanced price for item No. 4 on a simple comparison of North American's price with its own price and cost estimate for the item. As we have previously recognized, however, comparison of a competitor's prices with one's own prices, as Boland does, does not by itself establish price enhancement or that a bid is unbalanced. Kdisc, Division of Keysor Century Corp., B-240850, Aug. 24, 1990, 90-2 CPD ¶ 157; OMSEV Corp., B-237691, Mar. 13, 1990, 90-1 CPD ¶ 271.¹

Accordingly, the protest is dismissed.



Michael R. Golden
Assistant General Counsel

¹The agency also advises that, based on current funding, it does not intend to award item No. 4.